

### **REMARKS**

Applicant requests reconsideration and allowance in view of the following remarks.  
Claims 1-37 are pending, with claims 1, 22, and 30 being independent. No new matter is added.

#### **Appelman in view of Hurtado Rejection**

Claims 1-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Appelman (International Pub. No. WO 97/38434) in view of Hurtado et al. (U.S. Patent No. 6,611,812).

Applicant has submitted a revised declaration, an amendment, and a petition under 37 CFR 1.178(a)2 to correct the priority claim. Appelman was improperly cited as a priority document in the declaration and on the first page of the application as U.S. Application No. 08/630,846, filed April 11, 1996. Applicant has revised the priority claim. In particular, Application notes that the specification has been amended to also reference U.S. Application No. 09/371,208, which is a continuation of U.S. Application No. 08/630,846.

U.S. Application No. 08/630,846 issued as U.S. Patent No. 6,112,250 on August 29, 2000, but pendency to the parent case was maintained through U.S. Application No. 09/371,208, which was filed on August 10, 1999. U.S. Application No. 09/371,208 issued as U.S. Patent No. 6,112,250 on May 7, 2002, which is after Applicant's filing date.

As a result of the changes to the priority claim, the rejection of Claims 1-37 is obviated because Appelman does not qualify as prior art under 35 U.S.C. § 102. Thus, Appelman's teachings cannot be relied upon in formulating a 35 U.S.C. § 103(a) rejection.

Because the rejection of claims 1-37 was based on Applicant's priority document and is now longer available as prior art, withdrawal of the rejection of claims 1-37 is respectfully requested.


Applicant : Barry Appelman  
Serial No. : 09/873,272  
Filed : June 5, 2001  
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Attorney's Docket No.: 06975-054001 / Network 02

Enclosed is a \$1370.00 check for the Request for Continued Examination fee, for the Petition for Extension of Time fee and fee for the Petition Under 37 CFR § 1.78(A). Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

*This is a copy from  
2/12/2006 with claim 12 status  
information.*  
Date: \_\_\_\_\_

  
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The PTO did not receive the following  
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